IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE NINTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

-

WRIT PETITION NO : 11683 of 2004

Between:

K.A. Raoof S/o Fakruddin
R/o Annapuran Hotel Nehru Nagar, Kothaacheruvu Village,
Ananthapur district

..... PETITIONER

AND

The Depot Manager, APSRTC, Kadiri Depot, Kadiri, Ananthapur District

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus or any other appropriate Writ, declaring the action of the Respondent in deferring to annual increments with cumulative effect vide his proceedings No. 02/95(17)/02 KDR date 14-11-2002 without conducting any enquiry is illegal arbitrary and in violation of principles of natural justice and in violation of Art. 14 and 21 of the Constitution of India and consequently direct the respondent to add two increments to the pay of the petitioner.

Counsel for the Petitioner:MR.G.B.S.S.PAPA RAO

Counsel for the Respondent: MR.P.VINAYAKA SWAMY, Standing Counsel for

APSRTC

The Court at the stage of admission made the following ORDER:

For not collecting the requisite fare and issuing tickets to the passenger, a charge sheet was issued to the writ petitioner on
01-10-2002 calling for his explanation. The writ petitioner gave his explanation stating that he has not committed any irregularities. Not satisfying with the explanation submitted by the writ petitioner, the Disciplinary Authority imposed a penalty of deferment of two annual increments with cumulative effect by its proceedings dated 14-11-2002. Questioning the same, the present writ petition is filed.

The learned Counsel appearing for the writ petitioner contended that imposing a major penalty without conducting any enquiry is illegal and since the incident in question has taken place about two years back, instead of remitting back the matter to the Disciplinary Authority, he prays to impose a minor penalty.

The learned Standing Counsel for APSRTC appearing for the respondent did not oppose for the same.

For certain irregularities said to have been committed by the writ petitioner, a charge sheet was issued to him and an explanation was called for. Having not satisfied with the explanation offered by the writ petitioner, a penalty of deferment of two annual increments with cumulative effect was imposed on him. There cannot be any dispute that imposing the penalty of deferment of two annual increments with cumulative effect is a major penalty. But such a major penalty cannot be imposed without conducting any departmental enquiry. Though it is a matter to be remitted back to the Disciplinary Authority for appropriate decision, as the incident in question took place

about more than two years back and the writ petitioner also prayed to impose a minor penalty for the irregularities committed by him, the same can be considered. The lapse if any, is only in not collecting the fare but it is not a case of misappropriation of the amount. Therefore, considering the facts and circumstances of the case, minor penalty can be imposed on the petitioner.

In the result, the writ petition is disposed of modifying the penalty passed by the Disciplinary Authority to that of deferment of one annual increment without cumulative effect. In the circumstances, no costs.

9th JULY, 2004.

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To

1 The Depot Manager, APSRTC, Kadiri Depot, Kadiri, Ananthapur District

2 Two CD copies.